

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNIBEST INTERNATIONAL LLC,  
a Washington limited liability  
company,  
  
Plaintiff,  
  
v.  
  
WINFIELD SOLUTIONS LLC,  
A Delaware limited liability  
company,  
  
Defendant.

No. 4:16-CV-5031-EFS

**STIPULATED PROTECTIVE ORDER**

This Protective Order is entered pursuant to Federal Rule of Civil Procedure 26(c). The parties have stipulated and agreed, ECF No. 10-1, and the Court recognizes, that discovery in this matter is likely to involve production of confidential, proprietary, or private information, which should not be made available to competitors or the public generally.

Accordingly, **IT IS HEREBY ORDERED:**

- 1. Purposes and Limitations.** This Order does not confer blanket protection on all disclosures or responses to discovery. The protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the

1 applicable legal principles, and it does not presumptively  
2 entitle parties to file confidential information under  
3 seal.

4 **2. "Confidential" Material.** "Confidential" material shall  
5 include the following documents and tangible things  
6 produced or otherwise exchanged: company's customer list;  
7 company's financial records; contracts; confidential  
8 intercompany correspondence; confidential correspondence  
9 with clients regarding customer files, billing, design  
10 proposals, and business development; software; and trade  
11 secrets.

12 **3. Scope.** The protections conferred by this Order cover not  
13 only confidential material (as defined above), but also (A)  
14 any information copied or extracted from confidential  
15 material; (B) all copies, excerpts, summaries, or  
16 compilations of confidential material; and (C) any  
17 testimony, conversations, or presentations by parties or  
18 their counsel that might reveal confidential material.  
19 However, the protections conferred by this Order do not  
20 cover information that is in the public domain or becomes  
21 part of the public domain through trial or otherwise.

22 **4. Access to and Use of Confidential Material.**

23 **A. Basic Principles.** A receiving party may use  
24 confidential material that is disclosed or produced  
25 by another party or by a non-party in connection with  
26 this case only for prosecuting, defending, or

1 attempting to settle this litigation. Confidential  
2 material may be disclosed only to the categories of  
3 persons and under the conditions described in this  
4 Order. Confidential material must be stored and  
5 maintained by a receiving party at a location and in  
6 a secure manner that ensures that access is limited  
7 to the persons authorized under this Order.

8 **B.** Disclosure of Confidential Information or Items.  
9 Unless otherwise ordered by the Court or permitted in  
10 writing by the designating party, a receiving party  
11 may disclose any confidential material only to:

- 12 i. the receiving party's counsel of record in this  
13 action, as well as employees of counsel to whom it  
14 is reasonably necessary to disclose the information  
15 for this litigation;
- 16 ii. the officers, directors, and employees (including  
17 in-house counsel) of the receiving party to whom  
18 disclosure is reasonably necessary for this  
19 litigation, unless the parties agree that a  
20 particular document or material produced is for  
21 Attorney's Eyes Only and is so designated;
- 22 iii. experts and consultants to whom disclosure is  
23 reasonably necessary for this litigation and who  
24 have signed the "Acknowledgment and Agreement to Be  
25 Bound" (Exhibit A);  
26

1           iv. the Court, court personnel, and court reporters and  
2           their staff;

3           v. copy or imaging services retained by counsel to  
4           assist in the duplication of confidential material,  
5           provided that counsel for the party retaining the  
6           copy or imaging service instructs the service not  
7           to disclose any confidential material to third  
8           parties and to immediately return all originals and  
9           copies of any confidential material;

10          vi. during their depositions, witnesses in the action  
11          to whom disclosure is reasonably necessary and who  
12          have signed the "Acknowledgment and Agreement to Be  
13          Bound" (Exhibit A), unless otherwise agreed by the  
14          designating party or ordered by the Court. Pages of  
15          transcribed deposition testimony or exhibits to  
16          depositions that reveal confidential material must  
17          be separately bound by the court reporter and may  
18          not be disclosed to anyone except as permitted  
19          under this Order;

20          vii. the author or recipient of a document containing  
21          the information or a custodian or other person who  
22          otherwise possessed or knew the information.

23          **C. Filing Confidential Material.** Before filing  
24          confidential material or discussing or referencing  
25          such material in court filings, the filing party  
26          shall confer with the designating party to determine

1           whether the designating party will remove the  
2           confidential designation, whether the document can be  
3           redacted, or whether a motion to seal or stipulation  
4           and proposed order is warranted.

5           **5. Designating Protected Material.**

6           **A.** Exercise of Restraint and Care in Designating  
7           Material for Protection. Each party or non-party that  
8           designates information or items for protection under  
9           this Order must take care to limit any such  
10          designation to specific material that qualifies under  
11          the appropriate standards. The designating party must  
12          designate for protection only those parts of  
13          material, documents, items, or oral or written  
14          communications that qualify, so that other portions  
15          of the material, documents, items, or communications  
16          for which protection is not warranted are not swept  
17          unjustifiably within the ambit of this Order. Mass,  
18          indiscriminate, or routinized designations are  
19          prohibited. Designations that are shown to be clearly  
20          unjustified or that have been made for an improper  
21          purpose (e.g., to unnecessarily encumber or delay the  
22          case development process or to impose unnecessary  
23          expenses and burdens on other parties) expose the  
24          designating party to sanctions. If it comes to a  
25          designating party's attention that information or  
26          items that it designated for protection do not

1           qualify for protection, the designating party must  
2           promptly notify all other parties that it is  
3           withdrawing the mistaken designation.

4           **B. Manner and Timing of Designations.** Except as  
5           otherwise provided in this Order (see, e.g., second  
6           paragraph of Section 5(B)(i) below), or as otherwise  
7           stipulated or ordered, disclosure or discovery  
8           material that qualifies for protection under this  
9           Order must be clearly so designated before or when  
10          the material is disclosed or produced.

11          i. Information in documentary form: (e.g., paper or  
12          electronic documents and deposition exhibits, but  
13          excluding transcripts of depositions or other  
14          pretrial or trial proceedings), the designating  
15          party must affix the word "CONFIDENTIAL" to each  
16          page that contains confidential material. If only a  
17          portion or portions of the material on a page  
18          qualifies for protection, the producing party also  
19          must clearly identify the protected portion(s)  
20          (e.g., by making appropriate markings in the  
21          margins).

22          ii. Testimony given in deposition or in other pretrial  
23          or trial proceedings: the parties must identify on  
24          the record, during the deposition, hearing, or  
25          other proceeding, all protected testimony, without  
26          prejudice to their right to so designate other

1 testimony after reviewing the transcript. Any party  
2 or non-party may, within 15 days after receiving a  
3 deposition transcript, designate portions of the  
4 transcript, or exhibits thereto, as confidential.

5 iii. Other tangible items: the producing party must  
6 affix in a prominent place on the exterior of the  
7 container or containers in which the information or  
8 item is stored the word "CONFIDENTIAL." If only a  
9 portion or portions of the information or item  
10 warrant protection, the producing party, to the  
11 extent practicable, shall identify the protected  
12 portion(s).

13 **C. Inadvertent Failures to Designate.** If timely  
14 corrected, an inadvertent failure to designate  
15 qualified information or items does not, standing  
16 alone, waive the designating party's right to secure  
17 protection under this Order for such material. Upon  
18 timely correction of a designation, the receiving  
19 party must make reasonable efforts to ensure that the  
20 material is treated in accordance with the provisions  
21 of this Order.

22 **6. Challenging Confidentiality Designations.**

23 **A. Timing of Challenges.** Any party or non-party may  
24 challenge a designation of confidentiality at any  
25 time. Unless a prompt challenge to a designating  
26 party's confidentiality designation is necessary to

1           avoid       foreseeable,       substantial       unfairness,  
2           unnecessary economic burdens, or a significant  
3           disruption or delay of the litigation, a party does  
4           not waive its right to challenge a confidentiality  
5           designation by electing not to mount a challenge  
6           promptly after the original designation is disclosed.

7           **B.** Meet and Confer. The parties must make every attempt  
8           to resolve any dispute regarding confidential  
9           designations without court involvement. Any motion  
10          regarding confidential designations or for a  
11          protective order must include a certification, in the  
12          motion or in a declaration or affidavit, that the  
13          movant has engaged in a good faith meet and confer  
14          conference with other affected parties in an effort  
15          to resolve the dispute without court action. The  
16          certification must list the date, manner, and  
17          participants to the conference. A good faith effort  
18          to confer requires a face-to-face meeting or a  
19          telephone conference.

20          **C.** Judicial Intervention. If the parties cannot resolve  
21          a challenge without court intervention, the  
22          designating party may file and serve a motion to  
23          retain confidentiality. The burden of persuasion in  
24          any such motion shall be on the designating party.  
25          Frivolous challenges, and those made for an improper  
26          purpose (e.g., to harass or impose unnecessary



1 expenses and burdens on other parties) may expose the  
2 challenging party to sanctions. All parties shall  
3 continue to maintain the material in question as  
4 confidential until the Court rules on the challenge.

5 **7. Protected Material Subpoenaed or Ordered Produced in Other**  
6 **Litigation.** If a party is served with a subpoena or a court  
7 order issued in other litigation that compels disclosure of  
8 any information or items designated in this action as  
9 confidential, that party must:

10 **A.** promptly notify the designating party in writing and  
11 include a copy of the subpoena or court order;

12 **B.** promptly notify in writing the party who caused the  
13 subpoena or order to issue in the other litigation  
14 that some or all of the material covered by the  
15 subpoena or order is subject to this Order. Such  
16 notification shall include a copy of this Order; and

17 **C.** cooperate with respect to all reasonable procedures  
18 sought to be pursued by the designating party whose  
19 confidential material may be affected.

20 **8. Unauthorized Disclosure of Protected Material.** If a  
21 receiving party learns that, by inadvertence or otherwise,  
22 it has disclosed confidential material to any person or in  
23 any circumstance not authorized under this Order, the  
24 receiving party must immediately:

25 **A.** notify in writing the designating party of the  
26 unauthorized disclosures,

1           B.     use its best efforts to retrieve all unauthorized  
2                 copies of the protected material,

3           C.     inform the person or persons to whom unauthorized  
4                 disclosures were made of all the terms of this Order,  
5                 and

6           D.     request that such person or persons execute the  
7                 "Acknowledgment and Agreement to Be Bound" that is  
8                 attached hereto as Exhibit A.

9           **9. Inadvertent Production of Privileged or Otherwise Protected**  
10           **Material.** When a producing party gives notice to receiving  
11           parties that certain inadvertently produced material is  
12           subject to a claim of privilege or other protection, the  
13           obligations of the receiving parties are those set forth in  
14           Federal Rule of Civil Procedure 26(b)(5)(B). This provision  
15           is not intended to modify whatever procedure may be  
16           established in an e-discovery order or agreement that  
17           provides for production without prior privilege review.  
18           Parties shall confer on an appropriate non-waiver order  
19           under Federal Rule of Evidence 502.

20           **10. Non-Termination and Return of Documents.** Within 60 days  
21           after the termination of this action, including all  
22           appeals, each receiving party must return all confidential  
23           material to the producing party, including all copies,  
24           extracts and summaries thereof. Alternatively, the parties  
25           may agree upon appropriate methods of destruction.  
26           Notwithstanding this provision, counsel are entitled to

1 retain one archival copy of all documents filed with the  
2 Court, trial, deposition, and hearing transcripts,  
3 correspondence, deposition and trial exhibits, expert  
4 reports, attorney work product, and consultant and expert  
5 work product, even if such materials contain confidential  
6 material. The confidentiality obligations imposed by this  
7 Order shall remain in effect until a designating party  
8 agrees otherwise in writing or a court orders otherwise.

9 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this  
10 Order and provide copies to all counsel.

11 **DATED** this 28<sup>th</sup> day of November 2016.

12  
13 s/Edward F. Shea  
EDWARD F. SHEA  
14 Senior United States District Judge  
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty  
of perjury that I have read in its entirety and understand the  
Stipulated Protective Order that was issued by the United States  
District Court for the Eastern District of Washington on November 28,  
2016, in the case of *Unibest International LLC v. Winfield Solutions  
LLC*, No. 4:16-CV-5031-EFS. I agree to comply with and to be bound by  
all the terms of this Stipulated Protective Order, and I understand  
and acknowledge that failure to so comply could expose me to sanctions  
and punishment in the nature of contempt. I solemnly promise that I  
will not disclose in any manner any information or item that is  
subject to this Stipulated Protective Order to any person or entity  
except in strict compliance with the provisions of this Order. I  
further agree to submit to the jurisdiction of the United States  
District Court for the Eastern District of Washington for the purpose  
of enforcing the terms of this Stipulated Protective Order, even if  
such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_